IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

APPEAL NO.589 OF 2005
IN
COURT RECEIVER'S REPORT DATED 21.4.2005
IN
SUIT NO.3221 OF 1984

Kailash Prasad Agarwal .. Appellant

v/s.

Atul Dhirajlal Sohni & ors. .. Respondents

Mr.F.Divitre, senior counsel with Mr.Clive D'Souza for the appellant.

Mr.Anuj Narula for the respondent No.4.

Mr.M.H.I.Patel, representative of Court Receiver present.

CORAM : R.M. LODHA AND
J.P. DEVADHAR, JJ.

DATED : 20th July, 2005

P.C.

Heard Mr.F. Divitre, the learned senior counsel for the appellant and Mr. Anuj Narula, the learned counsel for the respondent No.4.

2. We perused the available material including the order dated 17th June, 2000 and the impugned order dated 10th June, 2005.

3. The impugned order dated 10th June, 2005, in our considered view, does not call for any interference.

The learned trial Judge has observed in the order that in the event the appellant succeeds in any proceedings adopted by him, he would be entitled to make an application for restoration of the property in such manner as he may be advised. We are informed by the learned senior counsel for the appellant that the appeals being appeal No.268 of 2001, appeal No.269 of 2001 and appeal No.600 of 2002 filed by the present appellant before the two Judge Bench of the Small Causes Court dissatisfied with the order of the trial Judge of the Small Causes Court dated 20th December, 2000 are pending We, accordingly, clarify that in the event of any interim and/or final order being passed by the appeal bench of the Small Causes Court in favour of the appellant, the parties including the Court Receiver shall act accordingly.

4. Needless to say that the Court Receiver shall hand over the possession of the part of the subject property to the second defendant without any delay but the demolition may not be done for a period of three weeks. The appellant shall not create any obstruction in implementation of the order as already ordered by the learned trial Judge.

5. With the aforesaid observation, the appeal is dismissed in limine.

(R.M. LODHA, J.)

(J.P. DEVADHAR, J.)